

General Information Letter: An exempt organization is automatically exempt from Illinois taxation if it is exempt from federal income taxation.

February 19, 2003

Dear:

This is in response to your letter to this office dated December 6, 2002, which was received by this office on January 24, 2003. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 *Ill. Adm. Code Part 1200* regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is www.revenue.state.il.us/legalinformation/regs/part1200.

The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state in part as follows:

I am writing on behalf of the above-mentioned taxpayer in order to obtain exemption for the INSTITUTE from the Illinois corporation business tax effective May 9, 2001.

INSTITUTE was granted exemption from federal income tax and recognized as a section 501(c)(3) charitable organization effective May 9, 2001. Enclosed is a copy of the federal determination letter.

Please be advised that pursuant to Section 205(a) of the Illinois Income Tax Act ("IITA"), 35 ILCS 5/101 et seq., an organization exempt from federal income taxation by reason of Section 501(a) of the Internal Revenue Code ("IRC") shall likewise be exempt from Illinois income taxation to the extent that its income is determined not to be "unrelated business taxable income" ("UBTI") under IRC Section 512. UBTI of an exempt organization is subject to Illinois income tax under IITA Section 205(a). The determination of exempt status for an organization is made at the federal level. Likewise, determination of an exempt organization's income as UBTI is also made at the federal level. Therefore where, for federal income tax purposes, an organization is treated as exempt under IRC Section 501(a), or an exempt organization's income is considered not to be UBTI, that treatment shall be recognized for IITA purposes. Further application to or determination by the State of Illinois is neither warranted nor required.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 *Ill. Adm. Code Part 1200*.

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Sincerely yours,

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